



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR     | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|--------------------------|---------------------|------------------|
| 09/701,257      | 04/11/2002  | Richard Charles Trembath | 3548 P 002          | 7815             |

7590

01/05/2005

Monique A Morneault  
Wallenstein & Wagner  
311 South Wacker Drive 5300  
Chicago, IL 60606-6630

EXAMINER

SAKELARIS, SALLY A

ART UNIT

PAPER NUMBER

1634

DATE MAILED: 01/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

Address : COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

| APPLICATION NO./<br>CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR /<br>PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
|---------------------------------|-------------|---|---------------------|
|---------------------------------|-------------|---|---------------------|

|          |
|----------|
| EXAMINER |
|----------|

|          |       |
|----------|-------|
| ART UNIT | PAPER |
|----------|-------|

12005

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents**

## Response to Amendment

The reply filed on 10/25/2004 is not fully responsive to the non-final restriction requirement sent 8/25/2004, because of the Applicant's failure to elect a "single haplotype including a single position at each of the 3 positions they claim of the S gene" (Pg. 4 restriction requirement). In their response to the requirement for restriction, applicant elected "Group II, claims 2-13 and 17" and asserted that the office's requirement for a further election on a single haplotype including a single position at each of the 3 sites in the S gene is "not necessary because the diagnostic method includes determining that the S gene contains all three polymorphisms at the same time, not whether the S gene contains only one of the polymorphisms". However, it should be noted by applicant the office's restriction requirement required the further election of a single haplotype not a single polymorphism. Applicant should note that their response will only be compliant with the further election of a single haplotype of the S gene. Furthermore, each nucleotide sequence is patentably distinct from one another and the search of such molecules would represent undue burden to the office.

See 37 CFR 1.111. Since the above-mentioned reply appears to be bona fide, applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Applicant should note that arguments in response to examiner's restriction requirement will be provided when the Applicant's reply is made fully responsive.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sally A Sakelaris whose telephone number is 571-272-0748. The examiner can normally be reached on M-Fri, 9-6:30 1st Friday off. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jones can be reached on 571-272-0745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sally Sakelaris

1/3/2005

  
PTO-90C (Rev. 04-03)  
**CARLA J. MYERS**  
**PRIMARY EXAMINER**